

Utah Antiquities Section
Utah Division of State History
Archaeological Data Management Policy Recommendations

April 21, 2016

Access to State of Utah government records is managed through the Utah Government Records Access and Management Act (GRAMA; Utah Code 63G-2). GRAMA recognizes both the public's right to access information concerning the conduct of the public's business and the public policy interest in restricting access to certain records classes. The archaeological records managed by the Antiquities Section of the Utah Division of State History are classified under GRAMA as protected as they reveal the location of both historic and prehistoric resources, that if know, would jeopardize the security of those resources (63G-2-305(26)).

GRAMA provides an agency's chief administrative officer weighing authority, allowing disclosure of records classified as protected if the interests favoring access are greater than or equal to the interests favoring restriction of access (63G-2-401(6)). This policy defines the individual qualifications required for receiving access to the previously described archaeological records according to History's chief administrative officer's weighing authority. This policy also provides guidance on the acceptable use of Antiquities managed data and procedures for policy violations.

HIST-P 2.3 Archaeology Records Access and Acceptable Use

Status: Proposed

Date: 4/21/2016

For: Antiquities Section, Utah Division of State History

Introduction

The archaeology records managed by the Antiquities Section of the Utah Division of State History are classified as protected under State Government Records Access and Management Act. This policy defines the individual qualifications required for receiving access to these protected records according to the Division Director's weighing authority. This policy also provides guidance on the acceptable use of this data and procedures for policy violations.

Definitions

- **GRAMA**
Utah Code 63G-2. State of Utah Government Records Access and Management Act as amended in the 2015 Legislature General Session.
- **Archaeological Records**
Any and all records maintained by the Antiquities Section of the Utah Division of State History relating to the archaeological resources of the state, especially archaeological site information, archaeological reports, project descriptions, and locational information, including maps, files, notes, photographs, images, sketches, computer files, databases, and Geographic Information System files.
- **State**
The State of Utah
- **Division**
The Utah Division of State History.
- **Director**
The Utah Division of State History's chief administrative officer as described by GRAMA. The person appointed by the Governor in the position of the Director of the Utah Division of State History.

Background

The Antiquities Section collects and manages archaeological records as mandated by Utah Code 9-8-304[f] and federal code §36 CFR 61.4(2) and in accordance with GRAMA (Utah Code 62G-2). This collection of records is the largest in the State and contains the locations and characteristics of archaeological and historic sites across the state, and the locations and descriptions of projects that searched for, identified, or affected archaeological and historic resources. These records are the most comprehensive in the State, and are maintained through cooperative agreements with state and federal land managing agencies.

GRAMA recognizes the public's right to access information concerning the conduct of the public's business. Also recognized is the public's policy interest in restricting access to certain records classes, including archaeological records. These archaeological records pertain to historic and prehistoric resources which may be jeopardized if locations are known. Archaeological records have been thereby classified as protected by the Division, in accordance with GRAMA, restricting access. Federal statute also may

restrict access (e.g. Archaeological Resources Protection Act of 1979, 16 U.S. Code §470aa–470mm). It is the responsibility of Antiquities and the Division to ensure the security of these records, while making them accessible, according to the Director's GRAMA weighing authority, to the partnered agencies, qualified archaeological consultants, and qualified archaeological researchers who need access to them.

Non Agency Access

In accordance with GRAMA (Utah Code 63G-2-401(6)), the Director, upon consideration and weighing the various interests and public policies pertinent to the records classification, may allow access to records classified as protected if the interests favoring access are greater than or equal to the interests favoring restriction of access. Given this weighing authority, the Director has defined the following qualifications where interests favoring access has outweighed the interests favoring restriction of access. As such, the following qualifications are required for access to the archaeological records.

All holders of current, valid State of Utah Principal Investigator Permits granted through the Governor's Public Lands Policy Coordination Office (PLPCO) may obtain access to the records. Individuals working directly under such a current permit holder may obtain access pending the permit holder's written permission and permit holder's assumption of access responsibilities.

Academic researchers working under the direction of a PLPCO Principal Investigator permit holder may be obtain access to the records. Researchers must also provide a current Curriculum Vita, research design, and a signed letter from the permit holder granting the researcher access to the records under their permit. The PLPCO permit holder assumes access responsibilities for the researching individual. Access will be granted for project-specific information only.

Individuals requesting access not covered by one of the above situations will initially be denied. However, access may be allowed by the Director based consideration of other factors and using the weighing authority of the Director in determining the interests favoring access or restriction of access.

In accordance with GRAMA, all users will be required to fill out, sign and have notarized the current Division's Archaeology Records user agreement. This will inform the records recipient of the protected classification of the archaeology records (Utah Code 63G-2-206(4)). If an individual changes organization, the submission of new user agreement with the new organization information is required.

Upon completion of the process specified above, the access requesting individual will obtain access to the Archaeology Records.

Agency access

Agency archaeologists meeting Secretary of the Interior's Professional Qualification Standards as defined and officially adopted in 1983 (48 FR 44716, September 29) and the Secretary of the Interior's Historic Preservation Professional Qualification Standards as expanded and revised in 1997 (62 FR 33708, June 20), but not formally adopted for federal regulatory purposes, may obtain access to the records. Other agency individuals working directly under such individuals may be granted access pending the permit holder's written permission and assumption of access responsibilities.

In accordance with GRAMA (Utah Code 63G-206-2(a)), the Division may share the protected archaeological records with another governmental agency if the requesting entity provides written assurance:

- That the records are necessary to the performance of the governmental entity's duties and functions;
- That the records will be used for a purpose similar to the purpose for which the information in the records were collected or obtained; and
- That the use of the records produces a public benefit that is greater than or equal to the individual privacy right that protects the records.

Agency partnerships are negotiated on a case-by-case basis and will be managed through an agency-level data sharing agreement. As part of this agreement the records recipient will be subject to the same restrictions on disclosure of the record and the original entity (Utah Code 63G-206(6)). All users from partnered agencies will be required to fill out, sign and have notarized the pertinent current Division's Archaeology Records user agreements.

Acceptable Use

Archaeological records are collected for use in statutory compliance, planning, scientific research, and for educational purposes. The records will only be used for the purposes for which the records were collected or obtained (Utah Code 63G-206-2(a)). The sensitive location information contained in these records must be carefully protected. Archaeology Records will be used in compliance with State of Utah GRAMA, federal ARPA, and federal NHPA requirements. Each user will agree to, sign, and have notarized the Division's Archaeology Records user agreement.

Data Sharing

Archaeology Records, both paper and digital, obtained from the Division will only be shared with individuals meeting the access requirements specified above. Archaeology Records will not be shared with third parties who do not meet these access requirements. Sharing of Archaeology Records to third parties who do not meet these access requirements may violate State GRAMA or federal ARPA and carry criminal or civil consequences.

Under certain circumstances, the Division may provide datafiles to consultants or researchers on a project basis, provided:

- (1) the information will be transferred under a restricted use license that:
 - a. limits the data use to the specified project only;
 - b. prohibits retaining the data after the project ends;
 - c. prohibits conveying the data to a third party;
 - d. requires updates and additional new information to be returned to the Antiquities in appropriate formats
- (2) requestors demonstrate and assure that security measures are in place that will guard against mis-handling of the datafiles;
- (3) requestors agree to destroy the datafiles upon completion of the project;
- (4) Anyone accessing the data will meet the access requirements spelled out above and sign the Division's archaeology records user agreements.
- (5) Relevant fees paid, as defined in the current relevant fee schedule.

Delivery of spatial data from the Archaeology Records dataset will be limited to the project area. The delivered data will be clipped to the project area meaning spatial feature extending outside the project area will be cut at the project boundary. An additional area of one mile outside of the project area may be allowed. Project areas that include the entire state or significant portions of the state are not allowed.

Distribution

Individuals who do not meet access requirements listed above will require further weighing consideration by the Director before access may be allowed. As any entity receiving the archaeology records are subject to the same restrictions on disclosure of the record as the Division (Utah Code 63G-205-6), any agency archaeologists accessing the Division's archaeology Records may provide such data or records to contracted archaeological consultants who meet the access requirements listed above. In such situations, the agency archaeologists may only provide data for lands they directly manage. Agency archaeologists may not provide data or records to contracted archaeological contractors for lands they do not directly manage or to individuals who do not meet the access requirements specified under the Access above. Instead the agency archaeologist should direct the consultant or organization to the Division.

Any non-agency individual accessing the archaeology records is subject to the same restrictions on disclosure of the record as the Division (ibid). Such individuals may only provide protected data with other individuals who meet the access requirements listed above, or with agencies the Division maintains a data sharing agreement with.

Publications and presentations

Archaeological site locations must be carefully protected. When displaying or publishing site location information, sourced from Antiquities, to individuals who do not meet access requirements listed above site locations must be obscured. Such location information must be ambiguous, and map locations must be kept at a small scale. In some cases archaeological project locations must also be obscured if they betray the location of an archaeological site. Archaeological records or data accessed from Division will acknowledge and reference the records or data as provided by the *Antiquities Section, Utah Division of State History*.

Policy Violations

Violations of this policy will result in immediate loss of access privileges to all archaeology records classified as protected including both paper and electronic data files and any data delivery system. Any individual violating this policy will be required to certify any retained archaeology records classified as protected are returned to the Division or destroyed. Such a violator will retain no right to possess or use already obtained records or data. Violators with loss of access privileges must petition the Director to re-instate privileges. The Director will consider renewed access under the Director's weighing authority. Violators may also be subject to ARPA or GRAMA violations which may include criminal charges or civil penalties. It is a Class B Misdemeanor to improperly disclose or provide copies of private, controlled or protected records according to Utah Code 63-2-801.